

REMARKSIntroductory Comments

Claims 1-20 are pending in the present application. Claim 1 has been amended. Reconsideration of the application is respectfully requested.

Rejections of Claims 1-4, 7-12, 14, 15, and 17-20 under 35 U.S.C. §102(b) - - Saklad

Claims 1-4, 7-12, 14, 15, and 17-20 stand rejected under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent No. 5,150,815 to Saklad ("Saklad"). This ground of rejection with respect to claims 17-20 is traversed, and this ground of rejection with respect to claims 1-4, 7-12, 14, 15 has been overcome by the amendment to claim 1.

The Office action alleges that Saklad discloses each and every one of the limitations of claim 1 and claim 17. More specifically, it is alleged that Saklad discloses a container comprising a cap having an orifice 46, a channel 45 for receiving a fin 54 of a sliding member 16, and a flexible conduit 18, where the sliding member is operating to position the flexible conduit between an open position and a closed position. The Office action also alleges that Saklad discloses a sliding member with a trench 19, a flexible conduit with retention features 50, and a container that includes a lenticular image.

Claim 1 has been amended to recite in part that at least a portion of the flexible conduit is located within the channel in the closed position. Saklad fails to disclose this limitation and, therefore, claim 1 is in condition for allowance for at least this reason. As identified by the Examiner, at no time is at least a portion of the flexible conduit 18 located within the channel 45 of Saklad.

Claim 17 includes the limitation that the cup includes a lenticular image associated therewith. In direct contrast to the allegations recited in the Office action, Saklad fails to disclose any lenticular image. If the subsequent Office action disagrees with Applicant's conclusion that Saklad fails to disclose lenticular images, Applicant respectfully requests the Office action to point out the portion of Saklad disclosing "lenticular images." Saklad only discloses floatable and sinkable objects that are immersed in a water solution lying within the space between the two shells of the container. (see Col. 2, ll. 37-42).

In light of the foregoing, it is respectfully submitted that independent claim 1 and independent claim 17 are patentably distinct from the disclosure of Saklad and are therefore in condition for allowance. Likewise, claims 2-4, 7-12, 14, 15, and 18-20 that depend from claim 1 or claim 17 are in condition for allowance for at least the same reasons stated for claim 1 and claim 17. Reconsideration and withdrawal of the 35 U.S.C. §102(b) rejections of record for claims 1-4, 7-12, 14, 15, and 17-20 in light of Saklad are respectfully requested.

Rejections of Claims 1, 2, 4, 7-12, 14, 15, and 17-19 under 35 U.S.C. §102(b) - - Tardie

Claims 1, 2, 4, 7-12, 14, 15, and 17-19 stand rejected under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent No. 5,339,982 to Tardie ("Tardie"). This ground of rejection with respect to claims 17-19 is traversed, and this ground of rejection with respect to claims 1, 2, 4, 7-12, 14, and 15 has been overcome by the amendment to claim 1.

The Office action alleges that Tardie discloses each and every one of the limitations of claim 1 and claim 17. More specifically, it is alleged that Tardie discloses a container comprising a cap having an orifice 20, a channel for receiving a fin 22 of a sliding member 12, and a flexible conduit 14, where the sliding member is operating to position the flexible conduit between an open position and a closed position. The Office action also alleges that Tardie discloses a flexible conduit with retention features 50, and a container that includes a lenticular image.

Claim 1 has been amended to recite in part that at least a portion of the flexible conduit is located within the channel in the closed position. Tardie fails to disclose this limitation and, therefore, claim 1 is in condition for allowance for at least this reason. As identified by the Examiner, at no time is at least a portion of the flexible conduit 14 located within the channel (unnumbered) of Tardie.

Claim 17 includes the limitation that the cup includes a lenticular image associated therewith. In direct contrast to the allegations recited in the Office action, Tardie fails to disclose lenticular images. If the subsequent Office action disagrees with Applicant's conclusion that Tardie fails to disclose lenticular images, Applicant respectfully requests the Office action to point out the portion of Tardie disclosing

“lenticular images.” Tardie only discloses metalized pieces of film and miniature slippers 19 that are immersed in an anti-freeze solution lying within the space between the two shells of the container. (see Col. 3, ll. 17-48).

In light of the foregoing, it is respectfully submitted that independent claims 1 and 17 are patentably distinct from the disclosure of Tardie and are therefore in condition for allowance. Likewise, claims 2, 4, 7-12, 14, 15, 18 and 19 that depend from claim 1 or claim 17 are in condition for allowance for at least the same reasons as claim 1 and claim 17. Reconsideration and withdrawal of the 35 U.S.C. §102(b) rejections of record for claims 1, 2, 4, 7-12, 14, 15, and 17-19 in light of Tardie are respectfully requested.

Rejections of Claims 1-5, 7-11, 17, and 20 under 35 U.S.C. §102(b) - - Hsu

Claims 1-5, 7-11, 17, and 20 stand rejected under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent No. 5,203,468 to Hsu (“Hsu”). This ground of rejection with respect to claims 17 and 20 is traversed, and this ground of rejection with respect to claims 1-5 and 7-11 has been overcome by the amendment to claim 1.

The Office action alleges that Hsu discloses each and every one of the limitations of claim 1 and claim 17. More specifically, it is alleged that Hsu discloses a container comprising a cap having an orifice, a channel 13 for receiving a fin 41 of a sliding member 4, and a flexible conduit 2, where the sliding member is operating to position the flexible conduit between an open position and a closed position. The Office action also alleges that Hsu discloses a sliding member with a trench, and a container that includes a lenticular image.

Claim 1 has been amended to recite in part that at least a portion of the flexible conduit is located within the channel in the closed position. Hsu fails to disclose this limitation and, therefore, claim 1 is in condition for allowance for at least this reason. As identified by the Examiner, at no time is at least a portion of the flexible conduit 2 located within the channel 13 of Hsu.

Claim 17 includes the limitation that the cup includes a lenticular image associated therewith. In direct contrast to the allegations of the Office action, Hsu fails to disclose lenticular images or, for that matter, any images associated with the container. If the subsequent Office action disagrees with Applicant’s conclusion that Hsu fails to

disclose lenticular images, Applicant respectfully requests the Office action to point out the portion of Hsu disclosing "lenticular images." In sum, Applicant respectfully submits that Hsu does not disclose associating images with the beverage container.

In light of the foregoing, it is respectfully submitted that independent claim 1 and claim 17 are patentably distinct from the disclosure of Hsu and are therefore in condition for allowance. Likewise, claims 2-5, 7-11, and 20 that depend from claim 1 or claim 17 are in condition for allowance for at least the same reasons as claim 1 and claim 17. Reconsideration and withdrawal of the 35 U.S.C. §102(b) rejections of record for claims 1-5, 7-11, 17, and 20 in light of Hsu are respectfully requested.

Rejection of Claim 13 under 35 U.S.C. §103(a)

Claim 13 stands rejected under 35 U.S.C. §103(a) as being allegedly obvious in light of U.S. Patent No. 5,150,815 to Saklad, or U.S. Patent No. 5,339,982 to Tardie, or U.S. Patent No. 5,203,468 to Hsu, in further view of U.S. Patent No. Des. 431,150 to Otake ("Otake"). This ground of rejection with respect to claim 13 has been overcome by the amendment to claim 1.

As previously discussed, the Office action alleges that Saklad, Tardie, and Hsu disclose each and every one of the limitations of claim 1. However, Saklad, Tardie, and Hsu each fail to disclose a container that includes concentric gripping rings. It is alleged that Otake discloses a container having concentric gripping rings, however, Otake fails to disclose the newly added limitation of claim 1 where at least a portion of the flexible conduit is located within the channel in the closed position. Moreover, Saklad, Tardie, and Hsu each fail to disclose the newly added limitation of claim 1 and, therefore, claim 1 and claim 13 are in condition for allowance. Reconsideration and withdrawal of the 35 U.S.C. §103(a) rejection of record for claim 13 are respectfully requested.

Rejection of Claim 16 under 35 U.S.C. §103(a)

Claim 16 stands rejected under 35 U.S.C. §103(a) as being allegedly obvious in light of U.S. Patent No. 5,150,815 to Saklad, or U.S. Patent No. 5,339,982 to Tardie, or U.S. Patent No. 5,203,468 to Hsu, in further view of U.S. Patent No. Des. 363,414 to

Goto et al. ("Goto"). This ground of rejection with respect to claim 16 has been overcome by the amendment to claim 1.

As previously discussed, the Office action alleges that Saklad, Tardie, and Hsu disclose each and every one of the limitations of claim 1. However, Saklad, Tardie, and Hsu each fail to disclose a cap with gripping aid features. It is alleged that Goto discloses a cap with gripping aid features, however, Goto fails to disclose the newly added limitation of claim 1 where at least a portion of the flexible conduit is located within the channel in the closed position. Moreover, Saklad, Tardie, and Hsu each fail to disclose the newly added limitation of claim 1 and, therefore, claim 1 and claim 16 are in condition for allowance. Reconsideration and withdrawal of the 35 U.S.C. §103(a) rejection of record for claim 16 are respectfully requested.

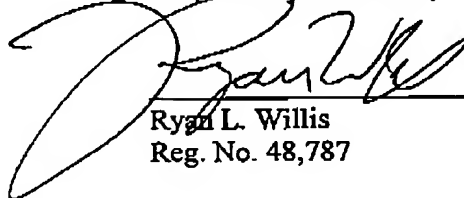
Conclusion

In light of the foregoing, it is respectfully submitted that claims 1-20, now pending, are patentably distinct from the references cited and are in condition for allowance. Reconsideration and withdrawal of the rejections of record are respectfully requested.

The Commissioner for Patents is hereby authorized to charge any additional fees that may be required by this paper, or to credit any overpayment to Deposit Account 50-3072.

In the event that the Examiner wishes to discuss any aspect of this response, please contact the undersigned at the telephone number provided below.

Respectfully submitted,



Ryan L. Willis
Reg. No. 48,787

30074
Taft, Stettinius & Hollister LLP
425 Walnut Street; Suite 1800
Cincinnati, OH 45202-3957
513-357-9663
willis@taftlaw.com